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Attorneys for Defendants U.S. Bank National
Association, N.D. and Stephanie Buckley

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

LAWRENCE JAMES SACCATO,

Plaintiff,

Case No. 6:13-CV-00173-AA

v.

U.S. BANK NATIONAL ASSOCIATION,
N.D., STEPHANIE BUCKLEY,
CHRISTOPHER KAYSER, DOES 1
THROUGH 5,

DECLARATION OF RICHARD
MARTINO IN SUPPORT OF U.S.
BANK'S AND STEPHANIE
BUCKLEY'S MOTION FOR SUMMARY
JUDGMENT

Defendants.

I, Richard Martino, do attest and declare:

1. I am Senior Vice President of Market Analytics & Performance Solutions for U.S. Bank National Association, N.D. ("U.S. Bank"). I am over 18 years of age and am competent to make the statements in this Declaration. If called to testify in court, I would testify as set forth

herein.

2. In my capacity as Senior Vice President of Market Analytics & Performance Solutions, one of my responsibilities is overseeing the bank's credit bureau inquiries for customer information. I am familiar with the purpose, substance, and consequences of U.S. Bank's automated inquiries into the credit information of the bank's checking account customers.

3. Checking accounts held at U.S. Bank are subject to the terms of the bank's internal treatment of a customer's delinquency. Those terms are based in part on the level of credit risk that the customer poses to the bank. Risk-based terms include, for example, whether the bank will pay an overdraft item rather than return it for insufficient funds and whether the bank will authorize a debit card transaction despite the unavailability of sufficient funds in the customer's account.

4. To protect its business interests, U.S. Bank may need to modify the risk-based terms of some checking accounts. To determine whether such modification is necessary, U.S. Bank analyzes the credit risk posed to the bank by each customer. That analysis includes consideration of a large amount of data related to each customer's historical and ongoing financial activity.

5. One data point used by U.S. Bank to assess the risk posed by each customer is the customer's credit information. U.S. Bank acquires that information through an "account review inquiry" to credit reporting agencies six times per year for all its checking account customers. Account review inquiries do not provide the bank the customers' full credit reports, do not affect customers' credit scores, and do not appear on customers' credit reports when viewed by other businesses. An account review inquiry appears on a customer's credit report only when the report is reviewed by the customer.

6. U.S. Bank uses the information obtained through account review inquiries, along with its internal customer data, to determine whether each customer continues to satisfy the current risk-based terms of the customer's account. Information obtained through an account review inquiry may lead the bank to alter an account's risk-based terms, for example, the level of overdraft protection provided by the bank to the checking account customer.

7. I have reviewed U.S. Bank's records concerning Lawrence James Saccato, the plaintiff in this lawsuit. According to those records, on February 1, 2011, Mr. Saccato held a checking account with U.S. Bank. Also according to those records, U.S. Bank made an account review inquiry into Mr. Saccato's credit information on February 1, 2011. The inquiry was part of the automated process described above that occurs six times per year for all of U.S. Bank's checking account customers.

8. The purpose of the February 1, 2011, inquiry into Mr. Saccato's credit information was to determine whether Mr. Saccato continued to meet the risk-based terms of his checking account with U.S. Bank.

The foregoing statements are made under penalty of perjury on this 16th day of May, 2013, at Richfield, Minnesota.


Richard Martino

CERTIFICATE OF SERVICE

I am over the age of 18 and am not a party to the within action. I am employed in Multnomah County, State of Oregon, and my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On May 21, 2013, I served the following document(s):

**DECLARATION OF RICHARD MARTINO IN SUPPORT OF U.S.
BANK'S AND STEPHANIE BUCKLEY'S MOTION FOR SUMMARY
JUDGMENT**

on the party or parties listed on the following page(s) in the following manner(s):

☐ **BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address(es) indicated on the attached service list.

☒ **BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.

☐ **BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.

☐ **BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.

☐ **BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Bridget M. Donegan
Bridget M. Donegan

Lawrence James Saccato
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Plaintiff *pro se*